

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Chambers of
STEVEN C. MANNION
United States Magistrate Judge

**Martin Luther King Jr, Federal Bldg.
& U.S. Courthouse
50 Walnut Street
Newark, NJ 07102
(973) 645-3827**

August 12, 2016

LETTER ORDER/OPINION

Re: D.E. 11, Plaintiff's application/petition for extension of time
Rodriguez v. Loscalzo et al.
Civil Action No. 15-8066(JLL)(SCM)

Dear Ms. Rodriguez:

This case has been assigned to me for pre-trial management. All correspondence to the Court for any pre-trial matter should be directed to my attention. I will direct the Clerk's Office to provide you with a form to complete and return so that you may receive electronic notifications in this case.

The Court is in receipt of your letter dated August 3, 2016, in which you request that the Court extend your deadline for service of process and provide guidance on the enforcement of subpoenas that you served on two hotels.¹ The rules governing civil procedure mandate that all rules be "employed by the court and the parties to secure the just, speedy, and inexpensive

¹ (ECF Docket Entry ("D.E.") 11).

determination of every action and proceeding.”² Your efforts to serve scores of persons and entities with process though they are not even named defendants in this case do not comport with the “just, speedy, and inexpensive determination of” this action. Therefore, your request is denied.

I. Rule 45, Subpoenas

First, subpoenas are a tool for obtaining discovery, and discovery does not start until after the Court has entered a scheduling order following a Rule 16 conference with the parties who have appeared in the case.³ No defendants have appeared in the case and therefore there has not been a Rule 16 conference. Thus, subpoenas may not be served at this time.

Second, only attorneys and the Clerk of the Court may issue subpoenas.⁴ You are therefore not authorized to issue a subpoena.

II. Rule 4, Service of Process

Your August 3, 2016 letter states that “73 of 85 defendants in this action were served” and requests the Court to provide a one-week extension “to complete service upon the remaining 13 defendants.”⁵ The Complaint has identified only 11 named defendants,⁶ but your letter states there are 85 defendants. Only individuals who are identified and named defendants in the

² See Fed.R.Civ.P. 1.

³ See Fed.R.Civ.P. 26(f).

⁴ See Fed.R.Civ.P. 45(a)(3).

⁵ (D.E. 11).

⁶ (D.E. 1).

complaint should be served. You are not to serve any individuals who are not named defendants in this action.

Furthermore, the Rules of Civil Procedure require that proof of service be filed with the Court.⁷ So far, there are no proofs of service filed on the docket. Therefore, before the Court will extend the time for additional service, affidavits of service for named defendants must be filed within the next 30 days for the service that has been effected.

For these reasons, your request for an extension is DENIED without prejudice. The Clerk's Office shall provide Plaintiff Rodriguez with an electronic notification form and a copy of this letter. **IT IS SO ORDERED.**




Honorable Steve Mannion, U.S.M.J.
United States District Court,
for the District of New Jersey
phone: 973-645-3827

8/12/2016 10:13:55 AM

Original: Clerk of the Court
Hon. Jose L. Linares, U.S.D.J.
cc: All parties

File
c (via U.S. Mail):

Ms. Melinda Rodriguez
131 Claremont Ave
Jersey City, NJ 07305

⁷ See Fed.R.Civ.P. 4(l).